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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,114	10/17/2001	David J. Kinsella	500863.000016	9326

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EXAMINER

GELAGAY, SHEWAYE

ART UNIT PAPER NUMBER

2137

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/982,114

Applicant(s)

KINSELLA ET AL.

Examiner

Shewaye Gelagay

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 3-4 and 12-13.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner has argued the obviousness to combine Scott et al. (hereinafter Scott, US 6,484,260) with the teachings of Moriconi et al. (hereinafter Moriconi, US 6,158,010) since Scott does not teach use of a device comprising audit log storage and authorization profile. The examiner asserts that the abstract in Scott teaches a portable, hand-held personal identification device for providing secure access to a host facility including biometric sensor capable of sensing biometric signal. Moriconi teaches a system and a method to manage and enforce complex security requirements for a distributed computer network by providing an audit log and authorization profile. to keep track of each authorization request (Col. 4, lines 31-34; Col. 9, lines 3-5) One ordinary skill in the art at the time the invention was made would have been motivated to provide an access control system that can manage individual transactions by users. This way, each access request whether granted or denied, and other useful information will be recorded for auditing, administering and enforcing the security of the system. Applicant argues Moriconi does not teach the limitations authorization profile and audit log storage as disclosed by the applicant. The Examiner disagrees with the applicant because Moriconi discloses an authorization request that is recorded in an audit log to keep track of the authorization requests, whether they were granted or denied. (Col. 4, lines 31-34) Moriconi also discloses an audit log data file that is used to record authorization requests. (Col. 9, lines 3-4) Furthermore, Moriconi discloses the audit log can also include other useful information. Therefore, it is respectfully asserted that the authorization profile and the audit log disclosed by Moriconi are stored or recorded which is similar to the one presented by the applicant. Regarding claim 4, the Applicant argues Der Ghazarian et al. (US 6,726,636, hereinafter Der Ghazarian) does not teach biometric information. Der Ghazarian discloses a device that analyzes breath content based on voice recognition. (Col. 3, lines 51-52) It is well known in the art that voice is considered as biometric information. It would have been obvious to use other biometrics in order to perform substance detection by the substance detection sensor. Regarding claim 12, the Applicant argues Bolle et al. (US 6,819,219, hereinafter Bolle) does not teach a proxy passkey. The Examiner disagrees with the Applicant because Bolle discloses a portable device with reader and duplex connection that can be used to make a connection using biometric authentication. (Col. 6, lines 15-42 and lines 59-67; Col. 8, lines 1-2) .


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